

THIRD DIVISION

[CA-G.R. CV NO. 98937, March 18, 2014]

**JOEDEL ALORA, PLAINTIFF-APPELLANT, VS. FE QUITORIANO
AND ELENA ROLDAN, DEFENDANTS-APPELLEES.**

DECISION

DE GUIA-SALVADOR, R., J.:

Filed pursuant to Rule 41 of the 1997 Rules of Civil Procedure, the instant appeal seeks to reverse and to set aside the Decision^[1] dated January 7, 2012 rendered by the Regional Trial Court of Quezon City, Branch 221 (**RTC**), in Civil Case No. Q-03-49985, the dispositive portion of which reads:

“WHEREFORE, premises considered, DECISION is hereby rendered DISMISSING the complaint for failure of the plaintiff to prove his cause of action against defendants. Defendants having duly proven and established their compulsory counterclaims against the plaintiff, the plaintiff Joedel Alora is hereby ORDERED to pay defendants Fe Quitariano and Elena Roldan the following:

1. Php500,000.00 as moral damages;
2. Php100,000.00 as exemplary damages;
3. Php50,000.00 as attorney's fees and expenses of litigation.

SO ORDERED.”^[2]

The Facts

At around 7:00 o'clock in the evening of February 20, 2003, Nilda Alora (**Nilda**), wife of plaintiff-appellant Joedel Alora (**Joedel**) called at the 11th floor of the Social Security System (**SSS**) office to talk to her husband, who was supposedly working on an overtime shift.^[3] It was defendant-appellee Elena Roldan (**Elena**) who answered the phone, but asked her co-defendant-appellee Fe Quitariano (**Fe**) where Joedel was. With Joedel nowhere in sight, Fe responded “*baka nasa boarding house*”. Thereafter, Nilda heard defendants and the others present in the room burst into laughter.^[4]

Upset, Nilda put the phone down and waited for her husband Joedel. Upon seeing him at the lobby of the SSS building, she furiously confronted him and asked him where he had been.^[5] Angered with what his wife relayed to him, he went back to his office and threatened to hit whoever mentioned to his wife that he was at a boarding house.^[6]

Joedel felt offended by the words uttered by Elena and Fe. He claimed that the phrase "baka nasa boarding house" was uttered with malicious intent to impute immoral acts against him, as it implied that he was having illicit affairs with other women in some boarding house.^[7] This imputation allegedly placed him in public ridicule and contempt, and caused his wife to suspect him of being unfaithful.^[8]

Meanwhile, on March 25, 2003, Joedel was terminated from his work at the SSS for conduct unbecoming as well as of violation of personnel policies and the Civil Service Law.^[9] On June 4, 2003, he filed a Complaint for reinstatement and backwages before the Labor Arbiter,^[10] who ruled in his favor, finding that he was illegally dismissed by the SSS.^[11] But, on appeal, the NLRC rendered its Decision^[12] dated August 15, 2007, which reversed and set aside the Labor Arbiter's finding.

On July 2, 2003, Joedel filed a Complaint for Damages^[13] before the RTC. He insisted that, in addition to being constitutive of malicious gossiping and destructive rumor mongering,^[14] Elena and Fe's acts likewise caused the estrangement and alienation of his wife's feelings towards him, which almost led to the break up of their marriage.^[15] Their "near separation" and constant quarreling, in turn, affected their three young children.^[16] He likewise alleged that it was due to the machinations of Fe that he was terminated from work.^[17] In all, Elena and Fe's acts deeply defamed him, besmirched his name and family honor, affected his marriage and disturbed his family's peace and harmony,^[18] thereby causing him mental anguish, serious anxiety, deep personal hurt, wounded feelings, moral shock, and social humiliation, for which he sought for the payment of moral damages^[19] as well as indemnity for actual damages, exemplary damages, nominal damages and attorney's fees.^[20]

On September 8, 2003, Elena and Fe filed their Answer with Compulsory Counterclaim.^[21] Elena vehemently denied having told Nilda that Joedel was at a boarding house. Elena asserted that what she said was that Joedel was not in the room, and had not been seen thereat for quite sometime.^[22] Fe, on the other hand, admitted that she uttered the phrase "*baka nasa boarding house*," but denied having uttered it with malice. Instead, it was uttered in good faith based on her honest assumption that Joedel might be at his aunt's residence at the SSS Housing since he was known to be engaged in the sideline of transporting SSS employees residing at the SSS Housing, using his aunt's vehicle.^[23] Elena and Fe also denied having laughed boisterously and salaciously after uttering the phrase.^[24]

Elena and Fe further asserted that Joedel filed the instant complaint in an attempt to harass and get even with them.^[25] They questioned how Joedel could have accurately known what transpired during the telephone call of his wife when he was not at his work station then, but was loitering around, doing unofficial business. In short, his accusations are all clearly based on hearsay.^[26] By way of compulsory counterclaim, Elena and Fe sought for the payment of exemplary damages, moral damages, and attorney's fees against Joedel for having filed the instant unfounded complaint for the sole purpose of harassing them.^[27]

The RTC Decision

On January 27, 2012, the RTC rendered the appealed decision, dismissing the complaint, on the following findings and conclusion:

xxx xxx xxx

"The crux of the determination of issues of this case is whether or not defendants,xxx engaged in "malicious gossip and destructive rumor mongering" that would impute immoral acts against the plaintiff that he was visiting and having illicit affairs with other women in some "boarding house"xxx

xxx xxx xxx

"Plaintiff was not actually present during the entire series of events when the defendant Elena Roldan answered the phone call of plaintiff's wife who was looking for plaintiff at his workplace, with defendant Fe Quitoriano allegedly said that plaintiff was "Baka nasa boarding house" as to his whereabouts that allegedly caused ",malicious joy and salacious laughter" that put plaintiff in public ridicule and contempt.xxx

xxx xxx xxx

These words in Exhibit "A" narrated by defendant Fe Quitoriano are clearly not defamatory. "Baka nasa boarding house" does not at all refer to imputing to the plaintiff a vice, crime, or defect. Any person, or even plaintiff being in or going to a boarding house is not doing a crime or engaging in an immoral act. Operating or maintaining a boarding house is in fact a lawful and useful business.

To impute something defamatory and destructive to a person or persons who are laughing ("Nagtatawanan po kami") would be unfair and unjust, as to prevent the person/s from expressing their collective feeling and emotion of a common experience and perception."^[28] xxx

xxx xxx xxx

On November 26, 2013, Joedel and Fe entered into a Compromise Agreement,²⁹ whereby both parties agreed to settle the case, with Joedel paying Fe the amount of P75,000.00 and issuing a Letter of Apology. Consequently, on December 12, 2013, We issued a Resolution declaring the case "dismissed, closed and terminated" insofar as Joedel and Fe are concerned.^[30]

The Issues

Aggrieved by the decision of the RTC, plaintiff-appellant Joedel perfected the appeal at bench thru the timely filing of his Notice of Appeal.^[31] Insofar as defendant-appellee Elena is concerned, Joedel seeks the reversal of the appealed decision on the basis of the following errors, *to wit*:

I THE COURT A QUO ERRED IN NOT FINDING DEFENDANT-APPELLEE ([ELENA] TO HAVE ENGAGED IN MALICIOUS GOSSIP AND RUMOR MONGERING.

II. THE COURT A QUO ERRED AND MISAPPRECIATED THE FACTS BEHIND THE NLRC'S REVERSAL OF THE LABOR ARBITER'S

DECISION.

III. THE COURT A QUO ERRED IN AWARDING MORAL, EXEMPLARY DAMAGES, AND ATTORNEY'S FEES IN FAVOR OF THE DEFENDANT-APPELLEE [ELENA] WITHOUT EXPLAINING WHY SHE IS ENTITLED TO SUCH RECOMPENSE IN VIOLATION OF THE CONSTITUTION AND THE RULES OF COURT.

IV. THE COURT A QUO ERRED IN GRANTING THE DEFENDANT-APPELLEE [ELENA'S] COUNTERCLAIM.^[32]

The Court's Ruling

We find partial merit in the instant appeal.

Elementary in civil law is the rule that "he who alleges the affirmative of the issue has the burden of proof," and upon him, the burden of proof never parts.^[33] Ordinarily, the same burden is in the first instance with the party who initiated the action or proceeding. Accordingly, in a suit for damages, the claimant must prove that he is entitled to recover such recompense,^[34] by satisfactorily establishing the existence of the factual basis of the damages and its causal connection to his opponent's acts.^[35] Specifically, an award of moral damages is predicated on the supposition that the person seeking such damages suffered mental anguish, serious anxiety or other similar injury.^[36] In the same manner, the grant of exemplary damages is dependent on proof that the defendant acted in a wanton, oppressive or malevolent manner,^[37] and is allowed only in addition to moral damages, wherein the former cannot be awarded without proof of entitlement to the latter.^[38] If the court has no proof or evidence upon which the claim for damages is based, then such indemnity cannot be awarded.^[39]

In the case at bench, Joedel's claim for damages is predicated on the alleged injurious effect of the utterance "*baka nasa boarding house*" to his personal and family life. He claims that the words were uttered with malicious intent of imputing against him immoral and unchaste acts, and defaming his character, and thereby causing him shame and ridicule, as well as the estrangement of his wife and the disruption of his family's peace and harmony.

We are unswayed by Joedel's contentions.

In defamation cases, courts are guided by the doctrine of ancient respectability that defamatory words will be judged depending not only upon their sense, grammatical significance, and accepted ordinary meaning assessing them separately, but also upon the special circumstances of the case, antecedents or relationship between the offended party and the offender, which might tend to prove the intention of the latter at the time of the utterance.^[40]

To Our mind, the phrase "*baka nasa boarding house*" does not in any sense connote the commission of any crime, vice, defect, or any immoral or illicit act. Ordinarily, "boarding house" refers to a private house that provides lodging for paying guests. No prurient or lascivious meaning is customarily attached to it.

Elena and Fe were Joedel's colleagues at the SSS, and at no instance did he advert to any previous quarrel or misunderstanding with anyone of them that would have

provoked them to shame and humiliate him. In fact, the statement that Joedel was in the boarding house was innocuously uttered by Fe in response to Nilda's prodding as to where her husband was. Fe satisfactorily explained that what she meant was that Joedel might be at his aunt's residence at the SSS Housing as he was known to be engaged on the side, in transporting SSS employees residing in the same subdivision, using his aunt's vehicle.^[41] One of the witnesses, SSS clerk Candido Lunas (**Candido**), likewise supported Elena's claim of not attaching any immoral or illicit innuendos in the controversial phrase.^[42]

Regarding Elena's participation in the incident, Nilda claims that Elena repeated Fe's statement that Joedel was in the boarding house, loud enough for her to hear.^[43] In her Answer, Elena vehemently denied having uttered such phrase to Nilda. In fact, what she told Nilda was that Joedel was not in the room, and had not been seen in the premises for quite sometime.^[44] Nilda's bare allegation was not corroborated by any other witness. Moreover, a scrutiny of the records reveals that it was actually Fe who uttered the phrase.

As for Joedel's allegation that the phrase "baka nasa boarding house" was maliciously uttered to defame and humiliate him, in that the utterance was followed by salacious laughter from Elena, Fe, and their colleagues, the same was not sufficiently proven. In fact, Candido, Merlita Semana (**Merlita**) and Fe, Joedel's colleagues who witnessed the incident, belied the occurrence of any salacious or malicious laughter.^[45] Candido denied having heard or witnessed the alleged boisterous and malicious laughter.^[46] Merlita's testimony corroborated that of Candido's.^[47] That Candido's table was just adjacent to Fe,^[48] while Merlita was seated only two tables away from Fe render their testimonies worthy of credence.^[49] Fe likewise explained in her judicial affidavit and affirmed on cross-examination, that they merely smiled (ngumiti) upon hearing the phrase "*baka nasa boarding house*", pointing out that it was in amusement at the miscommunication between Joedel and Nilda, the latter having called their office thrice to check up on her husband. Admittedly, neither Joedel nor any of his witnesses was present at the time of the incident; nowhere in the premises of the office was any of them present. In short, We find a dearth of evidence to prove that the utterance "*baka nasa boarding house*" ever drew malicious and salacious laughter from either Fe or Elena.

In assessing a witness' credibility, We are guided by the settled rule that the findings of the trial court respecting their credibility are entitled to great respect and even finality as it had the opportunity to examine their demeanor when they testified. The trial court found that Elena's witnesses testified in a clear, positive, and convincing manner and remained consistent on cross-examination.^[50] Significantly, no reason has been shown for Elena's witnesses to lie about the incident. In fact, no ill-motive was imputed against any of them.

Likewise, the phrase "salacious laughter" as used and described by Joedel and his wife Nilda is highly subjective and susceptible of varying interpretations. What may be salacious to one, may be innocuous and innocent to another. In fact, on cross-examination, Nilda described the alleged laughter as "salacious" or "malicious" on the flimsy reason that she was the only one who called up at that time, thus, there was nobody else for them to laugh at but her.^[51] Nilda's hasty conclusion is flimsy and unfounded. Besides, she was not even present in the office at the time to have been able to assert with certainty that Joedel's officemates were in fact laughing, or